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February 28, 2012

*Via ECF*

Hon. James Orenstein, USMJ  
United States District Courthouse  
Eastern District of New York  
225 Cadman Plaza  
Brooklyn, New York 11201

**Re: Cesar Saravia v. Valsen Marine LLC *et al.***  
**Civil Action No.: 11-CV 04354 (ENV) (JO)**  
**Status Conference: February 29, 2012 at 11:00 a.m.**  
**Joint Status Report**  
**Our File No. 174-21090**

Dear Judge Orenstein:

In accordance with the Court's case management and scheduling order dated November 27, 2011, the parties hereby submit a status report in the above-referenced personal injury action. A case status conference is scheduled in this matter for **February 29, 2012** at 11:00 a.m.

**Case Summary**

Plaintiff commenced this action for personal injuries arising out of a maritime crane hoisting accident that occurred during an operation to raise anchors of a barge owned by Valsen Marine, LLC ("Valsen Marine"). The complaint asserts a common law negligence cause of action against Valsen Marine and asserts causes of action against Miller's Launch, Inc. ("Miller's Launch"), plaintiff's employer, for negligence under the Jones Act and unseaworthiness under the General Maritime Law. Miller's Launch has asserted a cross-claim against Valsen Marine to recover its expenses paid to plaintiff for maintenance and cure. Both defendants have asserted cross-claims for contribution and common law indemnity.

**Summary of the Incident**

Plaintiff Cesar Saravia was a deck hand employed by defendant Miller's Launch and assigned

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to Tug SUSAN MILLER on July 16, 2009. On that day, Miller's Launch was contacted by Valsen Marine to provide a tug boat to move its crane barge MOBRO 94 from its Battery Park City location.

Tug SUSAN MILLER was dispatched to Valsen Marine's job site. Upon arrival two employees of Valsen Marine, including its project superintendent, boarded SUSAN MILLER to conduct the operation of raising MOBRO 94's anchors. During this operation a Valsen Marine employee positioned himself at the tug's bow so he could grab a hook lowered by a crane aboard MOBRO 94 and secure it to the top of an anchor buoy. Once attached, a Valsen Marine signal man would signal the crane operator, a Valsen Marine employee, to raise the anchor buoy.

Instead of the Valsen Marine employee grabbing hook, plaintiff did. He grabbed the cable with his right hand and held on to it when the crane operator, without warning, raised the cable. Plaintiff continued to hold on to the cable as it was being raised and his right hand little finger became pinched in the cable's block located above the hook, crushing his finger. Plaintiff was transported to Bellevue Hospital emergency room where a pin was insert at the proximal phalanx of the right hand little finger and the tip of that finger was amputated.

#### Status of Proceedings

An initial conference in this action was held on November 27, 2011. Since then, the parties have conducted the following matters:

##### *Pleadings*

On December 8, 2011, plaintiff filed an Amended Complaint clarifying his cause of action for negligence against Valsen Marine. Defendants have served and filed answers to the Amended Complaint.

##### *Written Discovery*

All parties have exchanged initial disclosure statements. Written discovery demands have been served by all parties. Plaintiff has responded to Miller's Launch's discovery demands. Miller's Launch has not provided responses to plaintiff's written discovery demands, in part, because they were served on February 9, 2012, and the time to respond has not expired.

Valsen Marine has provided partial responses to Miller's Launch's discovery demands. Counsel for Valsen says that his client is no longer in business and that he is encountering difficulty

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in obtaining responsive documents and answers to interrogatories.

Miller's Launch has not provided responses to Valsen Marine's discovery demands as they were served on January 21, 2012, almost a month after the deadline set out in the court's scheduling order requiring the parties to serve initial written discovery on or before **December 30, 2011**.

*Party Depositions*

Party depositions were initially scheduled for the second week of February, but were adjourned for plaintiff and Valsen Marine to provide responses to Miller's Launch's written discovery demands. The parties are in the process of rescheduling the depositions to a date in late March, but before incurring further discovery expenses, the parties believe a settlement conference would be beneficial.

**Settlement Conference**

The parties respectfully request the court schedule a settlement conference on a date convenient to the court in March 2012.

Respectfully submitted,

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